

AR 15-6 Investigating Officer's Brief

1. Introduction. Congratulations on your selection as an AR 15-6 Investigating Officer. The type of investigation you will be conducting is considered an “*informal*” AR 15-6 investigation. An Informal AR 15-6 investigation is one where the Commander appoints an Investigating Officer (IO), in this case—you, to investigate a particular situation or incident. You will report back to the Commander with a written report that contains a chronology of events, established facts, findings and make recommendations for the commander to consider. This is an important duty for the command; this will also be a good experience in your own officer professional development. Please carefully read this handout prior to talking with a JAG Officer for your legal brief. The purpose of this handout is to provide you with the main tenants of the legal brief so that you may use the time you talk with an attorney for questions to clarify your duties and responsibilities.

2. Basic Requirements.

a. You must be at least the rank of Warrant Officer 1 to serve as an AR 15-6 Officer;

b. In addition, you must be impartial. This means that you must come into the investigation with no preconceived opinions on the issue. If you were somehow involved in the matter to be investigated or have a history with the individuals involved in the investigation to such an extent that you cannot approach the investigation in an unbiased manner, you are required to bring this to the attention of the JAG Officer during your legal brief.

3. Conducting the Investigation. Unless the Commander has specified how the investigation is to be conducted, the IO possesses a fairly large degree of discretion. This handout is intended, therefore, to provide general guidance:

a. The JAG Office will provide you with a binder that contains general information you initially need, including the AR 15-6 regulation, Privacy Act statements, Sworn Statements, applicable laws and extracts of regulations, etc. Pick-up this binder as soon as possible at the main JAG Office in Cheyenne. If you are located outside of Cheyenne, call WO1 Benson at (307) 772-5254 and she will mail it to you.

b. Read thru any evidence that the command may have initially collected;

c. Read thoroughly, and understand, the applicable law/policies in the area you are investigating;

d. Make a list of all witnesses you want to interview and the order of interview.

Think whether you will need to read any witness their rights (see paragraph 6 below);

- e. Make a list of all evidence you want to collect/observe;
- f. Make a schedule (call witnesses and set-up interviews);
- g. Write out the tentative questions you want to ask each witness. Make sub-headings that cover each important area, ensure your questions under each sub-heading completely develop the particular issue. Keep all questions relevant. Ask hard questions, get to the point, ensure you get to the bottom of the truth.
- h. As the witness is answering your questions, listen carefully to their answers and write a brief note next or under the question, summarizing their answer.
- i. Think about any follow-up questions you may need to ask. Write it out quickly on your sheet, ask the question and summarize the answer as above.
- j. After questioning, ask the witness to write-out a statement on DA Form 2823, placing in their own words everything that was just discussed;
- k. Before the witness swears to and signs the statement, review it. Compare the written statement with your questions and notes. Ask the witness to add, at the bottom, any areas that he/she failed to discuss in the written statement. You may simply write out your question on the sworn statement and have the witness write their answer below. If there is a substantive difference between the written statement and what was discussed, ask the witness to explain and/or expound.
- l. Swear the witness to the written statement.
- m. Maintain your notes concerning the interviews.

4. Report of Investigation.

a. Use DA Form 1574 (the form is provided to you in the binder that JAG gives you). Attach the following to your report: 1). Chronology; 2). Facts; 3). Findings; and, 4). Recommendations.

b. Chronology. Begin a Chronology immediately upon receiving your appointment letter. A chronology is simply a list of actions you take and the time and date you took those actions (e.g. received appointment letter 7 August 2006 at 0800 hours).

c. Facts. In the report, fix dates, places, persons and events definitely and accurately. The best way to do this is to attach a "Facts" section to the report. The facts section should be done in chronological order and must be supported by a preponderance (over 50%) of the evidence. At the end of each fact, reference any evidence that supports the fact (e.g. "see statement A").

d. Findings.

1). The Findings section is where you make definite conclusions concerning your investigation. Findings, like facts, must be supported by a preponderance of the evidence. The Findings differ from the facts in that a finding address an entire issue. In the finding state the specific issue, discuss your analysis and make a conclusion. The finding should be tightly supported by your facts. In other words, every fact you use to make a finding should come from your “Facts” section (which is supported by your evidence). If you need to rely on an additional fact while making a finding, add it to your “Facts” section and reference the evidence that supports that fact.

2). At times, there will be a conflict with the evidence. For instance, one witness may say one thing and another witness may say something else. You cannot shy away from these conflicts. It is your responsibility to resolve them by analyzing the evidence (which may boil down to credibility) and explain how and why you made your determination. The determination may often be that because of conflicting evidence, you cannot substantiate a particular issue. Not substantiating something, if that is what the evidence calls for, is appropriate. The key is to explain the evidence and how the evidence interrelates, then to make a determination.

e. Recommendations. Lastly, the Recommendations section of the report can be very specific or general in nature. If the Recommendation has to do with a need for a systematic changes, i.e. a policy is needed on the use of rental cars, then make it very specific. If the Recommendation concerns taking some type of adverse action against an individual, simply put something to the effect as--take appropriate administrative/UCMJ action.

5. Privacy Act Statement. Every witness you interview who provides you with substantive information that you will use in your report, must receive a Privacy Act statement. The JAG Office will provide Privacy Act statements in your binder. Simply hand the statement to the witness. Attach one Privacy Act statement to your report and list the names of the individuals who received the statement during your investigation.

6. Article 31(b) Rights. Article 31(b) rights apply when you suspect a military member has committed a crime or violation of the UCMJ. The key to success in this area is to read the rights BEFORE you ask ANY questions if you suspect the individual committed a crime. A rights warning certificate (DA Form 3881) should be used to advise the person of their rights. The instructions on how to use the form are on the back of the form. In the section that advises the individual what he/she is suspected of, ensure you are as specific as possible (e.g. misuse of a government credit card on 8 August 2006, violation of Article 92 UCMJ). If the individual wishes to invoke his/her rights, the interview must be terminated immediately.

7. Legal Brief. Once you receive the Memorandum of Appointment, arrange with WO1 Benson for a telephonic legal brief. Have your questions prepared.

8. Conclusion. Stay organized and spend a lot of time making sure your report is logical, supported by the evidence and answers the appropriate issues. Lastly, spend the appropriate time and effort to write the report well. Your report is only as good as it is written. If you are a poor writer, this is a good opportunity to develop your skill. It will pay off tenfold. Please contact the JAG office with any questions at (772-5254/5027).